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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,876	09/12/2005	Motoyuki Sugiura	4706-2	8730
23117 7590 12/24/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
FRANK, NOAH S				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
12/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,876

Applicant(s)

SUGIURA ET AL.

Examiner

NOAH FRANK

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-12, 14 and 15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7, 10-12, 14 and 15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugiura et al. (US 5,674,930) in view of Ito et al. (JP 10-007874).

Considering Claims 1-2: Sugiura et al. teaches a graft copolymer having an olefin homo/co-polymer forming its main chain and a vinyl copolymer portion forming its branched portion (3:10-15). One of the olefin and vinyl form a dispersed phase in the other with a particle size of 0.001 to 10 microns, forming a multi-phase structure (3:20-25). Suitable vinyl monomers are hydroxyl group containing monomers and ester monomers of (meth)acrylic acid (8:55-60). Furthermore, the graft copolymer is blended with polypropylene, a thermoplastic resin (11:35-40).

Sugiura does not teach the graft copolymer comprising a lubricant. However, Ito et al. teaches graft copolymers comprising fatty acid flowability improving agents (lubricants) in an amount from 0.1-99.9 wt. % (Abs). Suitable fatty acids are fatty acids, fatty acid esters, and fatty acid amides (¶0038). Sugiura and Ito are combinable because they are from the same field of endeavor, namely graft copolymers. At the time of the invention a person of ordinary skill in the art would have found it obvious to have

used fatty acid amides, as taught by Ito, in the invention of Sugiura, in order to ensure that the final thermoplastic resin product has good flowability on its molding treatment (Abs of Ito).

Considering Claim 3: Sugiura et al. teaches making the graft copolymer by suspending an olefin homo/co-polymer in water, adding a solution of vinyl monomer, radically polymerizable organic peroxide, and polymerization initiator, impregnating the olefin with the vinyl monomer, peroxide, and initiator, copolymerizing the vinyl monomer and peroxide, and melt kneading the subsequent precursor (9:15-50).

Considering Claim 4: Sugiura et al. teaches melt kneading at a temperature of 100 to 300°C (9:45-50).

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugiura et al. (US 5,674,930) in view of Ito et al. (JP 10-007874).

Considering Claims 5 and 7: Sugiura et al. teaches a thermoplastic resin comprising a propylene polymeride or propylene based polymer and a graft copolymer having an olefin homo/co-polymer forming its main chain and a vinyl copolymer portion forming its branched portion (3:10-15). One of the olefin and vinyl form a dispersed phase in the other with a particle size of 0.001 to 10 microns, forming a multi-phase structure (3:20-25). Suitable vinyl monomers are hydroxyl group containing monomers and ester monomers of (meth)acrylic acid (8:55-60). Furthermore, the graft copolymer is blended with polypropylene, a thermoplastic resin (11:35-40).

Sugiura does not teach the graft copolymer comprising a lubricant. However, Ito et al. teaches graft copolymers comprising fatty acid flowability improving agents (lubricants) in an amount from 0.1-99.9 wt. % (Abs). Suitable fatty acids are fatty acids, fatty acid esters, and fatty acid amides (§0038). Sugiura and Ito are combinable because they are from the same field of endeavor, namely graft copolymers. At the time of the invention a person of ordinary skill in the art would have found it obvious to have used fatty acid amides, as taught by Ito, in the invention of Sugiura, in order to ensure that the final thermoplastic resin product has good flowability on its molding treatment (Abs of Ito).

Considering Claim 6: Sugiura et al. teaches the weight ratio of propylene polymeride to graft copolymer from 20:80 to 99:1 (11:40-45).

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugiura et al. (US 5,674,930) in view of Ito et al. (JP 10-007874).

Considering Claims 10 and 12: Sugiura et al. teaches a thermoplastic resin comprising a propylene polymeride or propylene based polymer and a graft copolymer having an olefin homo/co-polymer forming its main chain and a vinyl copolymer portion forming its branched portion (3:10-15). One of the olefin and vinyl form a dispersed phase in the other with a particle size of 0.001 to 10 microns, forming a multi-phase structure (3:20-25). Suitable vinyl monomers are hydroxyl group containing monomers and ester monomers of (meth)acrylic acid (8:55-60). In addition, Sugiura teaches using

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the resin composition as a material for molded articles (13:30-40). Furthermore, the graft copolymer is blended with polypropylene, a thermoplastic resin (11:35-40).

Sugiura does not teach the graft copolymer comprising a lubricant. However, Ito et al. teaches graft copolymers comprising fatty acid flowability improving agents (lubricants) in an amount from 0.1-99.9 wt. % (Abs). Suitable fatty acids are fatty acids, fatty acid esters, and fatty acid amides (§0038). Sugiura and Ito are combinable because they are from the same field of endeavor, namely graft copolymers. At the time of the invention a person of ordinary skill in the art would have found it obvious to have used fatty acid amides, as taught by Ito, in the invention of Sugiura, in order to ensure that the final thermoplastic resin product has good flowability on its molding treatment (Abs of Ito).

Considering Claim 11: Sugiura et al. teaches the weight ratio of propylene polymeride to graft copolymer from 20:80 to 99:1 (11:40-45).

Response to Arguments

Applicant's arguments filed 9/29/08 have been fully considered but they are not persuasive.

In response to applicant's arguments that Sugiura does not teach blending the copolymer with an olefin thermoplastic resin, please see the new rejection as set forth above.

In response to applicant's argument that the lubricant improves the scratch and abrasion resistance of the olefin thermoplastic, the fact that applicant has recognized

another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Furthermore, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOAH FRANK whose telephone number is (571)270-3667. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

NF
12-5-08